

Euthanasia and the Bill of Rights â€

Euthanasia remains 'in the fog of debate' in SA legal circles and has been debated both before and since the constitutional dispensation arrived along with democracy. The debate, says Werksmans Attorneys' Neil Kirby, was recently 'revived' by the Gauteng High Court (Pretoria) ruling in *Stransham-Ford v Minister of Justice and Correctional Services*, and a subsequent decision, on appeal, by the SCA in *Minister of Justice and Correctional Services and Others v Estate Late James Stransham-Ford and Others*. Kirby says the matter does not introduce formally into SA law the lawfulness of euthanasia as a general principle. 'The decision may provide useful precedent to another ailing individual who is incensed by the indignity of a suffering death, but euthanasia remains an illegal procedure,' he says, in an analysis on the [Daily Maverick](#) site. Kirby argues that the one conclusion reached by the courts – and which may be of use to the supporters of euthanasia – is the need for a legal shift in order to deal more formally with the concept of euthanasia in SA law and euthanasia's relationship to the Bill of Rights. In its judgment, the High Court pointed out that 'without dignity, human life is substantially diminished. Without life, there cannot be dignity'. Kirby says the question that the Stransham-Ford judgments leaves us with is not whether the Bill of Rights endorses euthanasia or the right to die, but rather **what we, as a society, must now consider as appropriate – both in circumstance and procedure – in order to support such a right, both statutorily and constitutionally**. He argues the debate is 'complex' but must be carefully moderated for the purposes of SA law. The debate, he says, is not about death and the right to die, 'but rather the process of achieving that goal in the secure belief that one is exercising a constitutional right'.